

3
Supreme Court, U.S.

FILED

FEB 10 1988

JOSEPH E. SPANIOL, JR.
CLERK

IN THE SUPREME COURT
UNITED STATES

October Term, 1987

SIGN, PICTORIAL AND DISPLAY INDUSTRY
PENSION TRUST FUND; SIGN, PICTORIAL
AND DISPLAY INDUSTRY WELFARE FUND,

Petitioners,

vs.

FORMETRICS, INC., a corporation,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit

SUPPLEMENTAL BRIEF

MICHAEL H. SALINSKY
Counsel of Record
ANNE E. LIBBIN
KEVIN M. FONG
225 Bush Street
Mailing Address P.O. Box 7880
San Francisco, CA 94120
Telephone: (415) 983-1462

Counsel for Respondent

PILLSBURY, MADISON & SUTRO
225 Bush Street
Mailing Address P.O. Box 7880
San Francisco, CA 94120
-Of Counsel



TABLE OF AUTHORITIES

	<u>Pages</u>
<u>Cases</u>	
Assoc. of St. Croix Condo Owners v. St. Croix Hotel, 682 F.2d 446	3
Cathey v. Johns-Manville Sales Corp., 711 F.2d 60	3
Commerzanstalt v. Telewide Systems, Inc., 790 F.2d 206	3
<u>Statutes</u>	
Bankruptcy Code	
11 U.S.C. § 101, et seq	1
11 U.S.C. § 326(a)(1)	2, 3



IN THE SUPREME COURT OF THE
UNITED STATES

October Term, 1987

SIGN, PICTORIAL AND DISPLAY INDUSTRY
PENSION TRUST FUND; SIGN, PICTORIAL
AND DISPLAY INDUSTRY WELFARE FUND,

Petitioners,

vs.

FORMETRICS, INC., a corporation,
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit

SUPPLEMENTAL BRIEF

Respondent Formetrics, Inc.
hereby advises this Court that a voluntary petition for a reorganization under Chapter 11 of the Bankruptcy Code (11 U.S.C. § 101, et seq.) was filed by Formetrics, Inc. in the United States



Bankruptcy Court for the Northern District of California on June 8, 1987 (Case No. 5-87-03127-M).¹ Pursuant to 11 U.S.C. § 362(a)(1), the filing of this Chapter 11 petition operates as a stay of

"* * * the commencement or continuation * * * of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under

1 Counsel for respondent herein does not represent Formetrics, Inc. in the Chapter 11 case.



this title" (11 U.S.C.

§ 362(a)(1)).

This automatic stay applies to "all appeals in proceedings that were originally brought against the debtor, regardless whether the debtor is the appellant or appellee" (Assoc. of St. Croix Condo. Owners v. St. Croix Hotel (3 Cir. 1982) 682 F.2d 446, 449; accord, Cathey v. Johns-Manville Sales Corp. (6 Cir. 1983) 711 F.2d 60, 62; Commerzbank v. Telewide Systems, Inc. (2 Cir. 1986) 790 F.2d 206, 207). Here, Formetrics, Inc. was defendant in the original district court proceedings.

CONCLUSION

For the foregoing reasons, the
proceedings should be stayed.

Respectfully submitted,

MICHAEL H. SALINSKY
Counsel of Record
ANNE E. LIBBIN
KEVIN M. FONG

Counsel for Respondent

PILLSBURY, MADISON & SUTRO

Of Counsel